



**In The Matter Of:**

*MADLINE RUIZ, PAULA MASSA v.  
MARDI GRAS ENTERTAINMENT, INC.,*

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*CARBONE, PATRICIA A. - Vol. 1  
April 18, 2011*

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**MERRILL CORPORATION**

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<p style="text-align: right;">Page 242</p> <p>1 any of the terms of that agreement?</p> <p>2 A. No.</p> <p>3 Q. Had you already undertaken the process of</p> <p>4 filing an age discrimination charge against</p> <p>5 Mardi Gras at the time that you were</p> <p>6 presented with that agreement?</p> <p>7 A. I had called them, but I wasn't pursuing it</p> <p>8 yet. I just had it on the back -- I didn't</p> <p>9 fill out the paperwork. I was a little</p> <p>10 nervous about doing it.</p> <p>11 Q. So when did you actually fill out the</p> <p>12 paperwork?</p> <p>13 A. After they did that to me at Lace.</p> <p>14 Q. Sometime after February 8, 2011?</p> <p>15 A. Um-hmm.</p> <p>16 Q. Sorry. February 8th of 2010?</p> <p>17 A. Yes.</p> <p>18 Q. Do you recall how long after February 8,</p> <p>19 2010, you submitted that paperwork?</p> <p>20 A. Less than a month.</p> <p>21 Q. Did you understand there to be any</p> <p>22 relationship between the proposed agreement</p> <p>23 that you were presented in conjunction with</p> <p>24 the beginning of your employment at Lace and</p>	<p style="text-align: right;">Page 244</p> <p>1 is that fair to say?</p> <p>2 A. Yes.</p> <p>3 Q. And having had some time to think about it,</p> <p>4 can you narrow down at all when you were</p> <p>5 first contacted by the United States</p> <p>6 Department of Labor?</p> <p>7 A. No, I can't. I received something in the</p> <p>8 mail, and they were asking -- you know, it</p> <p>9 was asking all sorts of questions, and that</p> <p>10 you were just to mail it back in. You</p> <p>11 didn't have to meet with anybody. You just</p> <p>12 had to fill it out and mail it back in and</p> <p>13 that it would not -- they couldn't say your</p> <p>14 name to Jimmy or Sherri.</p> <p>15 Q. Did it mention Jimmy or Sherri by name?</p> <p>16 A. Well, it just said, you know.</p> <p>17 Q. The employer?</p> <p>18 A. The employer.</p> <p>19 Q. Do you still have the document that you</p> <p>20 received in the mail?</p> <p>21 A. Actually, no. When I got that one, the</p> <p>22 first thing I did was give it to Sherri.</p> <p>23 Q. What did you tell her when you gave it to</p> <p>24 her?</p>
<p style="text-align: right;">Page 243</p> <p>1 any potential age claim you might assert?</p> <p>2 A. I didn't quite get that. Sorry.</p> <p>3 Q. Did you have any understanding about the</p> <p>4 effect that signing the agreement that was</p> <p>5 handed to you would have on any age claim</p> <p>6 that you could assert against the</p> <p>7 defendants?</p> <p>8 A. No, I didn't put that thought into it. That</p> <p>9 is not why.</p> <p>10 Q. And did you put any thought into whether</p> <p>11 signing that agreement would have any effect</p> <p>12 on any wage claim that you might assert</p> <p>13 against the defendants?</p> <p>14 A. No.</p> <p>15 Q. Basically, it just seemed unusual to you?</p> <p>16 A. Yes. It just didn't seem right.</p> <p>17 Q. You have mentioned a couple of times to me</p> <p>18 thus far in your deposition a proceeding</p> <p>19 that was initiated and conducted by the</p> <p>20 United States Department of Labor; is that</p> <p>21 right?</p> <p>22 A. Yes.</p> <p>23 Q. And you have told me that you are not sure</p> <p>24 when exactly that proceeding was commenced;</p>	<p style="text-align: right;">Page 245</p> <p>1 A. I just said, "This came in the mail. I</p> <p>2 don't know what you want to do with it."</p> <p>3 Q. What did she say?</p> <p>4 A. "I will take care of it."</p> <p>5 Q. Anything else come of that?</p> <p>6 A. No. And then I want to say probably about</p> <p>7 eight months later, they sent me another</p> <p>8 one.</p> <p>9 Q. "They," the Department of Labor, sent you</p> <p>10 another one?</p> <p>11 A. Yes.</p> <p>12 Q. Can you place that anywhere in time when you</p> <p>13 received the second letter?</p> <p>14 A. Yes, that was around --</p> <p>15 (Pause.)</p> <p>16 A. That was around the time right after they</p> <p>17 took our job from Fifth Alarm.</p> <p>18 Q. I am not sure I am following you there.</p> <p>19 A. That is when we lost our job at the Fifth</p> <p>20 Alarm.</p> <p>21 Q. So mid-2009?</p> <p>22 A. Yes.</p> <p>23 Q. Is when you received the second letter?</p> <p>24 A. Yes.</p>

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<p style="text-align: right;">Page 246</p> <p>1 Q. So the first letter you probably would have 2 received in the beginning of 2009 or the end 3 of 2008; is that fair to say? 4 A. Yes. 5 Q. How many total letters did you receive from 6 the Department of Labor? 7 A. Just those two. 8 Q. What did you do with the second one? 9 A. Filled it out and sent it back. 10 Q. Did you keep a copy of it? 11 A. No. 12 Q. Do you recall to whom you sent it? 13 A. No. They called me, and I had an 14 appointment with Martin. 15 Q. This is after you sent in the second filing? 16 A. Yes. 17 Q. We will get to that in a second. 18 Do you recall any information that 19 was asked of you in this second form? 20 A. If I remember correctly, it just asked how 21 many hours I worked and if I had to pay out 22 anybody, if I had to pay any tip outs. 23 Q. What did you put on the form? 24 A. I put what I worked and what I paid.</p>	<p style="text-align: right;">Page 248</p> <p>1 A. Because I really didn't want to. 2 Q. You understand you weren't obligated to do 3 that? 4 A. No. 5 Q. So at some point, you did want to? 6 A. Yes. It was an argument I had with myself. 7 Q. What made you decide that you did want to do 8 that? 9 A. I didn't want to do it because I was with 10 Jimmy for so many years, and I am a very 11 loyal person, so I didn't want to send it. 12 But then when I kept thinking about how the 13 hell am I going to feed my kids, it made me 14 send it. 15 Q. So it was your understanding that you might 16 get paid something out of sending this back? 17 A. No. Actually, yes. No. No. Because I 18 figured they were going to take whatever 19 with it. 20 Q. So what is the connection between filling 21 out the paperwork and feeding your kids? 22 A. Because I was mad at him. I was mad at what 23 he did to me. 24 Q. In terms of him firing you?</p>
<p style="text-align: right;">Page 247</p> <p>1 Q. What did you describe about what you paid? 2 A. I put 25 a week, and then I would put for 3 the bouncers and all of that. 4 Q. And you detailed all of this information in 5 the second form that you sent back to the 6 Department of Labor? 7 A. Yes. 8 Q. You just said that you filled out that form 9 to reflect that you tipped out \$25 a week? 10 Did I hear you right? 11 A. A shift. 12 Q. Do you recall any other information that was 13 included on that form? 14 A. No. 15 Q. Are you confident that that was all that was 16 on the form? 17 A. No. I don't remember. It was a while ago. 18 I don't remember everything that was on 19 there. 20 Q. How much time passed between when you 21 received that form in the mail and when you 22 sent it back? 23 A. Probably about a month and a half. 24 Q. Why did you wait so long to fill it out?</p>	<p style="text-align: right;">Page 249</p> <p>1 A. Yes. 2 Q. And that is why you began to participate in 3 this Department of Labor investigation? 4 A. Yes. That is why the first time I gave it 5 to Sherri, so she could do what she wants 6 with it. 7 Q. So they made you mad, and so you changed 8 course and decided to fill out the 9 paperwork? 10 A. Yes. 11 Q. And your decision to fill out the paperwork 12 didn't really have anything to do with any 13 change in the practices that were in place; 14 it was just you were now mad at them? 15 A. What do you mean, the "practices"? 16 Q. Nothing had changed between the time of 17 time -- 18 MR. MILLER: Strike that. 19 Q. In terms of the practices that you described 20 in the form, do you understand? 21 A. The paying the \$25 a shift, yes. 22 Q. The information that you provided in the 23 form, nothing changed between the period of 24 time that you didn't want to turn the form</p>

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<p style="text-align: right;">Page 250</p> <p>1 in and your decision to return the form, in</p> <p>2 terms of that practice, that was consistent?</p> <p>3 A. Right.</p> <p>4 Q. The only thing that changed was that you got</p> <p>5 angry with Mr. Santaniello and the other</p> <p>6 defendants in this action?</p> <p>7 A. Yes.</p> <p>8 Q. And wrapped up in that anger that you had</p> <p>9 towards Mr. Santaniello and the defendants</p> <p>10 in this action, was that also your</p> <p>11 contention that they fired you because of</p> <p>12 your age?</p> <p>13 MR. CASAVANT: Objection.</p> <p>14 A. No.</p> <p>15 Q. That is not one of the reasons you were mad</p> <p>16 at them?</p> <p>17 A. No.</p> <p>18 Q. Why were you mad at them?</p> <p>19 A. Just for everything that they did. The</p> <p>20 whole roundabout for everything they did.</p> <p>21 Q. And that didn't include your contention that</p> <p>22 they fired you because of your age?</p> <p>23 A. No. At that point, I had been tossed around</p> <p>24 from bar to bar. At that point, that was</p>	<p style="text-align: right;">Page 252</p> <p>1 A. Yes.</p> <p>2 Q. Do you know his last name?</p> <p>3 A. No.</p> <p>4 Q. Does the name Andexler sound familiar?</p> <p>5 A. No, it doesn't.</p> <p>6 Q. You don't think that was his last name?</p> <p>7 A. No.</p> <p>8 Q. If you remember his last name at some</p> <p>9 subsequent point, please let me know.</p> <p>10 Where did you meet with Martin?</p> <p>11 A. Downtown. Downtown somewhere.</p> <p>12 Q. At the offices of the U.S. Department of</p> <p>13 Labor?</p> <p>14 A. Yes.</p> <p>15 Q. When was that?</p> <p>16 A. About a year and a half ago, maybe. A year</p> <p>17 ago.</p> <p>18 Q. So fair to say between January and June of</p> <p>19 2010?</p> <p>20 A. Yes.</p> <p>21 Q. So it was quite a while after you sent this</p> <p>22 form back?</p> <p>23 A. Yes.</p> <p>24 Q. Do you have a sense of how much time passed</p>
<p style="text-align: right;">Page 251</p> <p>1 just the straw that broke the camel's back.</p> <p>2 Q. That is what I am trying to understand, I</p> <p>3 guess. What is the straw that broke the</p> <p>4 camel's back?</p> <p>5 A. When I got a phone call from a bartender</p> <p>6 that I no longer had a job.</p> <p>7 Q. So when they fired you?</p> <p>8 A. Yes. They didn't fire me. They had a</p> <p>9 bartender fire me.</p> <p>10 Q. And it is your contention that they fired</p> <p>11 you in part because of your age?</p> <p>12 A. Yes.</p> <p>13 Q. And that made you mad?</p> <p>14 A. Yes. I wasn't dancing about it.</p> <p>15 Q. And that is what eventually caused you to</p> <p>16 decide to return the paperwork to the</p> <p>17 Department of Labor?</p> <p>18 A. Yes.</p> <p>19 Q. Other than that form, did you ever submit</p> <p>20 any other paperwork to the Department of</p> <p>21 Labor?</p> <p>22 A. No.</p> <p>23 Q. You told me about an appointment you had</p> <p>24 with somebody named Martin; is that right?</p>	<p style="text-align: right;">Page 253</p> <p>1 between when you returned the second form</p> <p>2 and when you met with Mr. Andexler?</p> <p>3 A. No, I don't.</p> <p>4 Q. But it was more than a year?</p> <p>5 A. No. It was under a year.</p> <p>6 Q. You said at least six months?</p> <p>7 A. Yes.</p> <p>8 Q. Who contacted you to arrange this</p> <p>9 appointment?</p> <p>10 A. Martin.</p> <p>11 Q. He called you himself?</p> <p>12 A. Yes.</p> <p>13 Q. What did he say?</p> <p>14 A. That he wanted to make an appointment for me</p> <p>15 to come down and talk to him.</p> <p>16 Q. What did you say?</p> <p>17 A. Okay.</p> <p>18 Q. Were you working at any of the defendants'</p> <p>19 at this point?</p> <p>20 A. No.</p> <p>21 Q. This was after you last worked at Lace?</p> <p>22 A. No. This was after I worked at the Fifth</p> <p>23 Alarm.</p> <p>24 Q. Were you working at the Mardi Gras at that</p>

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<p style="text-align: right;">Page 254</p> <p>1 point?</p> <p>2 A. No, it was in between.</p> <p>3 Q. So it was between mid-May 2009 and</p> <p>4 June 2009?</p> <p>5 A. Yes. I really don't remember the dates.</p> <p>6 Q. But do you remember that it is between the</p> <p>7 time that you left the Fifth Alarm and you</p> <p>8 went back to Mardi Gras?</p> <p>9 A. Yes. Know I wasn't working.</p> <p>10 Q. And you have told me previously that you</p> <p>11 left the Fifth Alarm in mid-May 2009; right?</p> <p>12 A. Yes. And then I met with Jimmy in June.</p> <p>13 Q. So that was roughly the period of time that</p> <p>14 you met with Mr. Andexler?</p> <p>15 A. Yes.</p> <p>16 Q. Did you tell anyone that you were meeting</p> <p>17 with Mr. Andexler?</p> <p>18 A. No.</p> <p>19 Q. So you didn't tell Mr. Santaniello that?</p> <p>20 A. No.</p> <p>21 Q. You didn't tell Sherri that?</p> <p>22 A. No.</p> <p>23 Q. You didn't tell any representative of the</p> <p>24 defendants that you were meeting with the</p>	<p style="text-align: right;">Page 256</p> <p>1 Q. Did he ask you questions about anything</p> <p>2 else?</p> <p>3 A. What we were getting paid an hour, you know,</p> <p>4 what hours, how many shifts I worked, just</p> <p>5 stuff like that.</p> <p>6 Q. Anything else?</p> <p>7 A. No.</p> <p>8 Q. That took about an hour?</p> <p>9 A. About that.</p> <p>10 Q. Did he ask you questions about anybody else</p> <p>11 who worked at the Mardi Gras?</p> <p>12 A. I don't remember.</p> <p>13 Q. Did he ask you any questions about</p> <p>14 Mr. Santaniello in particular?</p> <p>15 A. No.</p> <p>16 Q. Did he ask you any questions about Shannon</p> <p>17 Corbett?</p> <p>18 A. No.</p> <p>19 Q. Did he ask you for any documents?</p> <p>20 A. No.</p> <p>21 Q. Did you bring any documents with you to that</p> <p>22 meeting?</p> <p>23 A. No.</p> <p>24 Q. Other than the meeting you had with Martin,</p>
<p style="text-align: right;">Page 255</p> <p>1 Department of Labor?</p> <p>2 A. No.</p> <p>3 Q. And you didn't tell any representative of</p> <p>4 the defendants that you had submitted the</p> <p>5 second form; is that right?</p> <p>6 A. Right.</p> <p>7 Q. How long did your meeting with Martin last?</p> <p>8 A. I think it was about an hour.</p> <p>9 Q. Did you meet with him just one time?</p> <p>10 A. Yes.</p> <p>11 Q. Was there anyone else present?</p> <p>12 A. No. It was just me.</p> <p>13 Q. Anyone else present on behalf of the</p> <p>14 Department of Labor?</p> <p>15 A. No.</p> <p>16 Q. It was just the two of you?</p> <p>17 A. Yes.</p> <p>18 Q. And what did he ask you?</p> <p>19 A. Just what we paid, how we paid it, who we</p> <p>20 paid it to.</p> <p>21 Q. So he asked you questions that pertained</p> <p>22 primarily to the tip out practice that we</p> <p>23 have been talking about today?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 257</p> <p>1 have you ever met with any other Department</p> <p>2 of Labor official in any capacity?</p> <p>3 A. No.</p> <p>4 Q. Do you know whether the Department of Labor</p> <p>5 interviewed anyone else in conjunction with</p> <p>6 its investigation of the Mardi Gras?</p> <p>7 A. I heard they did, but I have no idea.</p> <p>8 Q. From whom did you hear that?</p> <p>9 A. Just bartenders through there.</p> <p>10 Q. Specifically?</p> <p>11 A. There was a couple girls. But actually,</p> <p>12 some of them still work for him, so.</p> <p>13 Q. What are their names?</p> <p>14 A. Kelly Gagne, I think, was one of them.</p> <p>15 Chrissy Cabana had to meet with him. And</p> <p>16 Bobbi Jo Murray.</p> <p>17 Q. Do you know of anyone else?</p> <p>18 A. No.</p> <p>19 Q. What was Bobbi Jo Murray's position?</p> <p>20 A. She was a bartender.</p> <p>21 Q. Was it Kelly Gagne, you said?</p> <p>22 A. Yes.</p> <p>23 Q. Did you ever discuss with Ms. Gagne the</p> <p>24 meeting that she had with the Department of</p>

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<p style="text-align: right;">Page 258</p> <p>1 Labor?</p> <p>2 A. No.</p> <p>3 Q. How did you hear that she met with him?</p> <p>4 A. Just talk through the bar.</p> <p>5 Q. You talked to her directly?</p> <p>6 A. No.</p> <p>7 Q. Do you remember who told you that?</p> <p>8 A. No.</p> <p>9 Q. How about Chrissy Cabana? How did you come</p> <p>10 to know that she had met with the Department</p> <p>11 of Labor?</p> <p>12 A. She told me.</p> <p>13 Q. What did she say?</p> <p>14 A. That she filled out her paperwork and she</p> <p>15 sent it and she was going to have a meeting</p> <p>16 with him.</p> <p>17 Q. So she told you about this meeting before it</p> <p>18 occurred?</p> <p>19 A. Yes.</p> <p>20 Q. Did she ever have any other conversation</p> <p>21 with you about it?</p> <p>22 A. No.</p> <p>23 Q. Was she a bartender?</p> <p>24 A. Yes. She was a manager, and then she was</p>	<p style="text-align: right;">Page 260</p> <p>1 it?</p> <p>2 A. No.</p> <p>3 Q. You and she never discussed any aspect of</p> <p>4 the Department of Labor's investigation?</p> <p>5 A. No.</p> <p>6 Q. Do you know if that investigation was</p> <p>7 concluded?</p> <p>8 A. I have no idea.</p> <p>9 Q. Do you have any idea what the status of that</p> <p>10 investigation is?</p> <p>11 A. No, I don't.</p> <p>12 Q. So you don't know whether the Department of</p> <p>13 Labor concluded that you were owed any money</p> <p>14 as a result of that investigation?</p> <p>15 A. Not as far as I know.</p> <p>16 Q. How much do you think you are owed in</p> <p>17 conjunction with the practices that are</p> <p>18 subject of your claims in this matter?</p> <p>19 A. I don't know.</p> <p>20 Q. Do you have any idea?</p> <p>21 A. No. I haven't even thought about it.</p> <p>22 Q. You have never given any thought as to what</p> <p>23 you believe you are owed?</p> <p>24 A. No.</p>
<p style="text-align: right;">Page 259</p> <p>1 brought down to a bartender.</p> <p>2 Q. So it was during the period of time that she</p> <p>3 was a bartender that you had this</p> <p>4 conversation with her?</p> <p>5 A. Yes.</p> <p>6 Q. Did you ever have any subsequent</p> <p>7 conversations with her about the Department</p> <p>8 of Labor investigation?</p> <p>9 A. No.</p> <p>10 Q. Did you ever have any subsequent</p> <p>11 conversation with her about her meeting with</p> <p>12 the Department of Labor?</p> <p>13 A. No.</p> <p>14 Q. Did you ever discuss with her what she</p> <p>15 included on the paperwork that she sent to</p> <p>16 the Department of Labor?</p> <p>17 A. No.</p> <p>18 Q. And Bobbi Jo Murray, how did you come to</p> <p>19 know that she had met with the Department of</p> <p>20 Labor?</p> <p>21 A. Just talk through the bar.</p> <p>22 Q. You don't remember who told you that?</p> <p>23 A. No.</p> <p>24 Q. Did you ever talk to Bobbi Jo Murray about</p>	<p style="text-align: right;">Page 261</p> <p>1 Q. Have you ever given any thought as to what</p> <p>2 you would settle for?</p> <p>3 A. No. It is just too early for that.</p> <p>4 Q. You don't have any idea?</p> <p>5 A. No.</p> <p>6 Q. If the Department of Labor had concluded</p> <p>7 that you were owed less than \$10,000 in</p> <p>8 conjunction with the practices that it were</p> <p>9 investigating, would you have any basis to</p> <p>10 dispute that calculation?</p> <p>11 MR. CASAVANT: Objection.</p> <p>12 THE WITNESS: Can I answer this?</p> <p>13 MR. CASAVANT: Yes, you can.</p> <p>14 A. No.</p> <p>15 BY MR. MILLER:</p> <p>16 Q. So far as you know, the claims that you</p> <p>17 assert in this litigation could be valued at</p> <p>18 less than \$10,000?</p> <p>19 MR. CASAVANT: Objection.</p> <p>20 A. I guess.</p> <p>21 Q. Do you have any idea what your counsel has</p> <p>22 demanded in settlement of your claims in</p> <p>23 this matter?</p> <p>24 MR. CASAVANT: Objection.</p>

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